

2003 DRAFTING REQUEST

Bill

Received: 09/08/2003

Received By: jkreye

Wanted: As time permits

Identical to LRB:

For: Steve Wieckert (608) 266-3070

By/Representing: scott

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax Credits - miscellaneous
Tax - corp. inc. and fran.

Extra Copies:

Submit via email: YES

Requester's email: Rep.Wieckert@legis.state.wi.us

Carbon copy (CC:) to: joseph.kreye@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Film production services tax credit

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							State
/P1	jkreye 09/15/2003	jdyer 09/30/2003	rschluet 10/23/2003		lnorthro 10/23/2003		State
	jkreye 10/24/2003	kfollett 10/21/2003					
		kfollett					

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10/23/2003

jdye

10/24/2003

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rschluet

10/24/2003

sbasford

10/24/2003

lnorthro

02/24/2004

FE Sent For: 11/03/2003.

<END>

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[Handwritten signature and date]
10-24-03

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10-23-03
P6
<END>

FE Sent For:

Kreye, Joseph

From: Becher, Scott
Sent: Friday, September 05, 2003 4:52 PM
To: Kreye, Joseph
Subject: FW: Illinois film law

Joe- Per our conversation.. Please draft this bill for Wisconsin.

Scott

-----Original Message-----

From: Cannon, Peter (Legislature)
Sent: Thursday, September 04, 2003 4:18 PM
To: Becher, Scott
Subject: Illinois film law

I think this is it.

<http://www.legis.state.il.us/legislation/publicacts/fulltext.asp?Name=093-0543&print=true>

Pete

Peter Cannon
Senior Legislative Analyst
LRB
6-5446

Public Act 93-0543

SB785 Enrolled

LRB093 02893 SJM 02909 b

AN ACT in relation to taxation.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Short title. This Act may be cited as the Film Production Services Tax Credit Act.

Section 5. Purpose. The General Assembly finds that the Illinois economy is highly vulnerable to other states and nations that have major financial incentive programs targeted to the motion picture industry. Because of the incentive programs of these competitor locations, Illinois must move aggressively with new business development investment tools so that Illinois is more competitive in site location decision-making for film productions. In an increasingly global economy, Illinois' long-term development will benefit from rational, strategic use of State resources in support of film production development and growth. It is the purpose of this Act to preserve and expand the existing human infrastructure for the motion picture industry in Illinois. It shall be the policy of this State to promote and encourage the training and hiring of Illinois residents who represent the diversity of the Illinois population through the creation and implementation of training, education, and recruitment programs organized in cooperation with Illinois colleges and universities, labor organizations, and the motion picture industry.

Section 10. Definitions. As used in this Act:

"Accredited production" means a film, video, or television production that has been certified by the Department in which the aggregate Illinois labor expenditures included in the cost of the production, in the period that ends 12 months after the time principal filming or taping of the production began, exceed \$100,000 for productions of 30 minutes or longer, or \$50,000 for productions of less than 30 minutes; but does not include a production that:

- (1) is news, current events, or public programming, or a program that includes weather or market reports;
- (2) is a talk show;
- (3) is a production in respect of a game, questionnaire, or contest;
- (4) is a sports event or activity;
- (5) is a gala presentation or awards show;
- (6) is a finished production that solicits funds;
- (7) is a production produced by a film production company if records, as required by 18 U.S.C. 2257, are to be maintained by that film production company with respect to any performer portrayed in that single media or multimedia program; or
- (8) is a production produced primarily for industrial, corporate, or institutional purposes.

"Accredited production certificate" means a certificate issued by the Department certifying that the production is an

accredited production that meets the guidelines of this Act.

"Applicant" means a taxpayer that is a film production company that is operating or has operated an accredited production located within the State of Illinois and that (i) owns the copyright in the accredited production throughout the Illinois production period or (ii) has contracted directly with the owner of the copyright in the accredited production or a person acting on behalf of the owner to provide services for the production, where the owner of the copyright is not an eligible production corporation.

"Credit" means the amount equal to 25% of the Illinois labor expenditure approved by the Department. The applicant is deemed to have paid, on its balance due day for the year, an amount equal to 25% of its qualified Illinois labor expenditure for the tax year.

"Department" means the Department of Commerce and Community Affairs.

"Director" means the Director of Commerce and Community Affairs.

"Illinois labor expenditure" means salary or wages paid to employees of the applicant for services on the accredited production;

To qualify as an Illinois labor expenditure, the expenditure must be:

- (1) Reasonable in the circumstances.
- (2) Included in the federal income tax basis of the property.
- (3) Incurred by the applicant for services on or after January 1, 2004.
- (4) Incurred for the production stages of the accredited production, from the final script stage to the end of the post-production stage.
- (5) Limited to the first \$25,000 of wages paid or incurred to each employee of the production.
- (6) Exclusive of the salary or wages paid to or incurred for the 2 highest paid employees of the production.
- (7) Directly attributable to the accredited production.
- (8) Paid in the tax year for which the applicant is claiming the credit or no later than 60 days after the end of the tax year.
- (9) Paid to persons resident in Illinois at the time the payments were made.
- (10) Paid for services rendered in Illinois.

Section 15. Powers of the Department. The Department, in addition to those powers granted under the Civil Administrative Code of Illinois, is granted and has all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act, including, but not limited to, power and authority to:

(a) Adopt rules deemed necessary and appropriate for the administration of the tax credit program; establish forms for applications, notifications, contracts, or any other agreements; and accept applications at any time during the year.

(b) Assist applicants pursuant to the provisions of this Act to promote, foster, and support film production and its related job creation or retention within the State.

(c) Gather information and conduct inquiries, in the manner and by the methods as it deems desirable, including, without limitation, gathering information with respect to applicants for the purpose of making any designations or certifications necessary or desirable or to gather information to assist the Department with any recommendation or guidance in the furtherance of the purposes of this Act, including, but not limited to, information as to whether the applicant participated in training, education, and recruitment programs that are organized in cooperation with Illinois colleges and universities, labor organizations, and the motion picture industry, and are designed to promote and encourage the training and hiring of Illinois residents who represent the diversity of the Illinois population.

(d) Provide for sufficient personnel to permit administration, staffing, operation, and related support required to adequately discharge its duties and responsibilities described in this Act from funds as may be appropriated by the General Assembly for the administration of this Act.

(e) Require applicants, upon written request, to issue any necessary authorization to the appropriate federal, state, or local authority for the release of information concerning a project being considered under the provisions of this Act, with the information requested to include, but not be limited to, financial reports, returns, or records relating to the applicant or the accredited production.

(f) Require that an applicant must at all times keep proper books of record and account in accordance with generally accepted accounting principles consistently applied, with the books, records, or papers related to the accredited production in the custody or control of the taxpayer open for reasonable Department inspection and audits, and including, without limitation, the making of copies of the books, records, or papers, and the inspection or appraisal of any of the assets of the applicant or the accredited production.

(g) Take whatever actions are necessary or appropriate to protect the State's interest in the event of bankruptcy, default, foreclosure, or noncompliance with the terms and conditions of financial assistance or participation required under this Act, including the power to sell, dispose, lease, or rent, upon terms and conditions determined by the Director to be appropriate, real or personal property that the Department may receive as a result of these actions.

Section 20. Tax credit awards. Subject to the conditions set forth in this Act, an applicant is entitled to a credit of 25% of the Illinois labor expenditure approved by the Department under Section 40 of this Act.

Section 25. Application for certification of accredited production. Any applicant proposing a film or television production located or planned to be located in Illinois may request an accredited production certificate by formal application to the Department.

Section 30. Review of application for accredited production certificate.

(a) In determining whether to issue an accredited

production certificate, the Department must determine that a preponderance of the following conditions exist:

(1) The applicant's production intends to make the expenditure in the State required for certification.

(2) The applicant's production is economically sound and will benefit the people of the State of Illinois by increasing opportunities for employment and strengthen the economy of Illinois.

(3) The applicant's production application includes a provision setting forth the percentage of minority workers that the production company plans to employ, subject to any applicable collective bargaining agreements with a labor organization to which the applicant is a signatory, to perform work on the production. This provision should stress the importance of hiring the percentage of minorities that is set out in the application.

(4) The applicant's production application indicates whether the applicant intends to participate in training, education, and recruitment programs that are organized in cooperation with Illinois colleges and universities, labor organizations, and the motion picture industry and are designed to promote and encourage the training and hiring of Illinois residents who represent the diversity of the Illinois population.

(5) That, if not for the credit, the applicant's production would not occur in Illinois, which may be demonstrated by any means including, but not limited to, evidence that the applicant has multi-state or international location options and could reasonably and efficiently locate outside of the State, or demonstration that at least one other state or nation is being considered for the production, or evidence that the receipt of the credit is a major factor in the applicant's decision and that without the credit the applicant likely would not create or retain jobs in Illinois, or demonstration that receiving the credit is essential to the applicant's decision to create or retain new jobs in the State.

(6) Awarding the credit will result in an overall positive impact to the State, as determined by the Department using the best available data.

(b) If any of the provisions in this Section conflict with any existing collective bargaining agreements, the terms and conditions of those collective bargaining agreements shall control.

Section 35. Issuance of Tax Credit Certificate.

(a) In order to qualify for a tax credit under this Act, an applicant must file an application, on forms prescribed by the Department, providing information necessary to calculate the tax credit, and any additional information as required by the Department.

(b) Upon satisfactory review of the application, the Department shall issue a Tax Credit Certificate stating the amount of the tax credit to which the applicant is entitled.

Section 40. Amount and duration of the credit. The amount of the credit awarded under this Act is based on the amount of the Illinois labor expenditure approved by the Department

for the production. The duration of the credit may not exceed one taxable year.

Section 45. Evaluation of tax credit program. The Department shall evaluate the tax credit program. The evaluation must include an assessment of the effectiveness of the program in creating and retaining new jobs in Illinois and of the revenue impact of the program, and may include a review of the practices and experiences of other states or nations with similar programs. Upon completion of this evaluation, the Department shall determine the overall success of the program, and may make a recommendation to extend, modify, or not extend the program based on this evaluation.

Section 50. Program terms and conditions. Any documentary materials or data made available or received by any agent or employee of the Department are confidential and are not public records to the extent that the materials or data consist of commercial or financial information regarding the operation of the production of the applicant for or recipient of any tax credit under this Act.

Section 90. Repeal. This Act is repealed 1 year after its effective date.

Section 905. The Illinois Income Tax Act is amended by adding Section 213 as follows:

(35 ILCS 5/213 new)

Sec. 213. Film production services credit. For tax years beginning on or after January 1, 2004, a taxpayer who has been awarded a tax credit under the Film Production Services Tax Credit Act is entitled to a credit against the taxes imposed under subsections (a) and (b) of Section 201 of this Act in an amount determined by the Department of Commerce and Community Affairs under the Film Production Services Tax Credit Act. If the taxpayer is a partnership or Subchapter S corporation, the credit is allowed to the partners or shareholders in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code. The Department, in cooperation with the Department of Commerce and Community Affairs, must prescribe rules to enforce and administer the provisions of this Section. This Section is exempt from the provisions of Section 250 of this Act.

The credit may not be carried forward or back. In no event shall a credit under this Section reduce the taxpayer's liability to less than zero.

Section 999. Effective date. This Act takes effect on January 1, 2004.

Effective Date: 1/1/2004

Floor Actions

Date	Action
8/18/2003	Public Act



OFFICE OF STATE REPRESENTATIVE
STEVE WIECKERT

SCOTT BECHER
Policy Advisor

STATE CAPITOL: Room 16 West • Post Office Box 8953
Madison, Wisconsin 53708-8953

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<http://www.chicagotribune.com/news/local/chi-0308190309aug19.story>

Illinois hopes to get film 'action'

Governor OKs 25% tax credit for filmmakers

By John Chase
Tribune staff reporter

August 19, 2003

A scene that has become rare in Chicago in recent years played out Monday on a South Side street--a film crew making a movie.

But in an attempt to reverse that trend and encourage producers to film more movies and TV shows in the city and Illinois, Gov. Rod Blagojevich signed a bill into law giving a tax break to filmmakers. He signed the legislation on the set of the movie "Barbershop 2," which is in production in the South Chicago neighborhood.

Support for the tax cut came from the General Assembly and the governor despite the state's fiscal crisis, which has sent officials scrambling to find ways to close tax loopholes and raise revenue. But Blagojevich said any tax dollars the state might lose by giving tax credits to filmmakers will be offset by the infusion that more moviemaking will mean to the local economy.

"When you consider the history of Chicago and Illinois when it comes to making movies, when you consider all the jobs and the economic benefits directly and indirectly to our economy, it seems like the time is not only now, but it should have been before now," Blagojevich said.

"What makes the timing particularly attractive to us is the fact that we have a chance here in Illinois to lead the nation when it comes to providing tax incentives, tax credits and other incentives to induce the movie industry to make movies here. This is why the timing is so good."

Under the legislation, filmmakers will receive tax credits equal to 25 percent of the wages they pay Illinois residents working on projects shot in the state. The films or TV shows must cost at least \$100,000 for Illinois labor and be 30 minutes or longer, although shorter films may also qualify.

Once a frequent locale for movie productions, Illinois--Chicago, in particular--has experienced a precipitous drop in recent years.

Even last year's Academy Award-winning musical "Chicago" wasn't made here.

"In the old days, movies were filmed in Illinois all the time," Blagojevich said. "Now, movies named 'Chicago' are filmed in Toronto."



Indeed, Canada has become the biggest competitor. Not only does Canada offer significant tax breaks to filmmakers, but it also has a favorable monetary exchange rate, making production there even cheaper for Hollywood studios.

Two producers of last year's "Barbershop" and the sequel being filmed here, George Tillman and Bob Teitel, said the law will make some filmmakers think about shooting in Chicago, rather than going to Toronto or some other setting.

"It'll definitely bring movies here. When you talk to the film community out in Los Angeles, a lot of those guys are tired of going out to Toronto, they're tired of shooting the same locations," said Tillman, who along with Teitel graduated from the Columbia College film school in Chicago. "They want to get back and shoot in some places that are new, and Chicago has a lot of that to offer."

The governor said the decision to give tax breaks to the film industry is a "good first step" and hinted that bigger breaks might be in the offing. Even if the breaks aren't enough to offset all the cost advantage Canada enjoys, Blagojevich said the legislation will make Illinois more competitive than other states seeking film business.

"You can't film all the films in Canada. I don't care how good the exchange rates are," Blagojevich said. "At some point you're going to make a lot of movies here in the United States, and so why not be the best we can be here in the United States."end opt trim

Blagojevich said he would make a cameo appearance in "Barbershop 2," although the filmmakers' first pitch was rejected by the governor's staff.

"I think there was a potential role for me as a Chicago alderman," said Blagojevich, who is the son-in-law of Ald. Richard Mell (33rd). My staff "thought that was a little too close to home."

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Public Act 93-0543

SB785 Enrolled

LRB093 02893 SJM 02909 b

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(a) Adopt rules deemed necessary and appropriate for the administration of the tax credit program; establish forms for applications, notifications, contracts, or any other agreements; and accept applications at any time during the year.

(b) Assist applicants pursuant to the provisions of this Act to promote, foster, and support film production and its related job creation or retention within the State.

(c) Gather information and conduct inquiries, in the manner and by the methods as it deems desirable, including, without limitation, gathering information with respect to applicants for the purpose of making any designations or certifications necessary or desirable or to gather information to assist the Department with any recommendation or guidance in the furtherance of the purposes of this Act, including, but not limited to, information as to whether the applicant participated in training, education, and recruitment programs that are organized in cooperation with Illinois colleges and universities, labor organizations, and the motion picture industry, and are designed to promote and encourage the training and hiring of Illinois residents who represent the diversity of the Illinois population.

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(e) Require applicants, upon written request, to issue any necessary authorization to the appropriate federal, state, or local authority for the release of information concerning a project being considered under the provisions of this Act, with the information requested to include, but not be limited to, financial reports, returns, or records relating to the applicant or the accredited production.

(f) Require that an applicant must at all times keep proper books of record and account in accordance with generally accepted accounting principles consistently applied, with the books, records, or papers related to the accredited production in the custody or control of the taxpayer open for reasonable Department inspection and audits, and including, without limitation, the making of copies of the books, records, or papers, and the inspection or appraisal of any of the assets of the applicant or the accredited production.

(g) Take whatever actions are necessary or appropriate to protect the State's interest in the event of bankruptcy, default, foreclosure, or noncompliance with the terms and conditions of financial assistance or participation required under this Act, including the power to sell, dispose, lease, or rent, upon terms and conditions determined by the Director to be appropriate, real or personal property that the Department may receive as a result of these actions.

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(4) The applicant's production application indicates whether the applicant intends to participate in training, education, and recruitment programs that are organized in cooperation with Illinois colleges and universities, labor organizations, and the motion picture industry and are designed to promote and encourage the training and hiring of Illinois residents who represent the diversity of the Illinois population.

(5) That, if not for the credit, the applicant's production would not occur in Illinois, which may be demonstrated by any means including, but not limited to, evidence that the applicant has multi-state or international location options and could reasonably and efficiently locate outside of the State, or demonstration that at least one other state or nation is being considered for the production, or evidence that the receipt of the credit is a major factor in the applicant's decision and that without the credit the applicant likely would not create or retain jobs in Illinois, or demonstration that receiving the credit is essential to the applicant's decision to create or retain new jobs in the State.

(6) Awarding the credit will result in an overall positive impact to the State, as determined by the Department using the best available data.

(b) If any of the provisions in this Section conflict with any existing collective bargaining agreements, the terms and conditions of those collective bargaining agreements shall control.

Section 35. Issuance of Tax Credit Certificate.

(a) In order to qualify for a tax credit under this Act, an applicant must file an application, on forms prescribed by the Department, providing information necessary to calculate the tax credit, and any additional information as required by the Department.

(b) Upon satisfactory review of the application, the Department shall issue a Tax Credit Certificate stating the amount of the tax credit to which the applicant is entitled.

Section 40. Amount and duration of the credit. The amount of the credit awarded under this Act is based on the amount of the Illinois labor expenditure approved by the Department

for the production. The duration of the credit may not exceed one taxable year.

Section 45. Evaluation of tax credit program. The Department shall evaluate the tax credit program. The evaluation must include an assessment of the effectiveness of the program in creating and retaining new jobs in Illinois and of the revenue impact of the program, and may include a review of the practices and experiences of other states or nations with similar programs. Upon completion of this evaluation, the Department shall determine the overall success of the program, and may make a recommendation to extend, modify, or not extend the program based on this evaluation.

Section 50. Program terms and conditions. Any documentary materials or data made available or received by any agent or employee of the Department are confidential and are not public records to the extent that the materials or data consist of commercial or financial information regarding the operation of the production of the applicant for or recipient of any tax credit under this Act.

Section 90. Repeal. This Act is repealed 1 year after its effective date.

Section 905. The Illinois Income Tax Act is amended by adding Section 213 as follows:

(35 ILCS 5/213 new)

Sec. 213. Film production services credit. For tax years beginning on or after January 1, 2004, a taxpayer who has been awarded a tax credit under the Film Production Services Tax Credit Act is entitled to a credit against the taxes imposed under subsections (a) and (b) of Section 201 of this Act in an amount determined by the Department of Commerce and Community Affairs under the Film Production Services Tax Credit Act. If the taxpayer is a partnership or Subchapter S corporation, the credit is allowed to the partners or shareholders in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code. The Department, in cooperation with the Department of Commerce and Community Affairs, must prescribe rules to enforce and administer the provisions of this Section. This Section is exempt from the provisions of Section 250 of this Act.

The credit may not be carried forward or back. In no event shall a credit under this Section reduce the taxpayer's liability to less than zero.

Section 999. Effective date. This Act takes effect on January 1, 2004.

Effective Date: 1/1/2004

Floor Actions

Date	Action
8/18/2003	Public Act



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3234/P1

JK: [Signature]

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 9-15-03
SDON

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Reagan Gen

- 1 AN ACT ...; relating to: creating an income and franchise tax credit for expenses
2 related to film production services.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit for salary and wages paid in this state for film production services. The amount of the tax credit is equal to 25 percent of the salary or wages paid to the taxpayer's employees in the taxable year for services rendered in this state to produce a film, video, or television production, as approved by the department of revenue, and paid to employees who were residents of this state at the time that they were paid. The total amount of the credit that may be claimed by a taxpayer may not exceed an amount equal to the first \$25,000 of salary or wages paid to each of the taxpayer's employees in the taxable year, not including the salary or wages paid to the taxpayer's two highest paid employees in the taxable year. If the total amount of the credit claimed by a taxpayer exceeds the taxpayer's tax liability, the state will not issue a refund, but the taxpayer may carry forward any remaining credit to subsequent taxable years.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 3 SECTION 1. 71.05 (6) (a) 15. of the statutes is amended to read:

1 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
2 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), and (3s) and not passed
3 through by a partnership, limited liability company, or tax-option corporation that
4 has added that amount to the partnership's, company's, or tax-option corporation's
5 income under s. 71.21 (4) or 71.34 (1) (g).

History: 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237; 1999 a. 9, 32, 44, 54, 65, 167; 2001 a. 16, 104, 105, 109.

6 **SECTION 2.** 71.07 (3n) of the statutes is created to read:

7 **71.07 (3n) FILM PRODUCTION SERVICES CREDIT.** (a) In this subsection:

8 1. "Accredited production" means a film, video, or television production, as
9 approved by the department, for which the aggregate salary and wages included in
10 the cost of the production for the period ending 12 months after the month in which
11 the principal filming or taping of the production ~~began~~^{begin} exceeds \$100,000 for a
12 production that is 30 minutes or longer or \$50,000 for a production that is less than
13 30 minutes. "Accredited production" does not include any of the following, regardless
14 of the production costs:

15 a. News, current events, or public programming or a program that includes
16 weather or market reports.

17 b. A talk show.

18 c. A production with respect to a game, questionnaire, or contest.

19 d. A sports event or sports activity.

20 e. A gala presentation or awards show.

21 f. A finished production that solicits funds.

22 g. A production for which the production company is required under 18 U.S.C.
23 2257 to maintain records with respect to a performer portrayed in a single media or
24 multimedia program.

1 h. A production produced primarily for industrial, corporate, or institutional
2 purposes.

3 2. "Claimant" means a film production company that is operating or has
4 operated an accredited production in this state, if the company owns the copyright
5 in the accredited production or has contracted directly with the copyright owner or
6 a person acting on the owner's behalf.

7 (b) Subject to the limitations provided in this subsection, a claimant may claim
8 as a credit against the tax imposed under s. 71.02 an amount equal to 25 percent of
9 the salary or wages paid to the claimant's employees in the taxable year for services
10 rendered in this state to produce an accredited production and paid to employees who
11 were residents of this state at the time that they were paid.

12 (c) No amount of the salary or wages paid under par. (b) may be the basis for
13 a credit under this subsection unless the salary or wages are paid for services
14 rendered after December 31, 2003, and directly incurred for the production stages
15 of the accredited production, from the final script to the end of the post-production. *stage*

16 (d) The total amount of the credit that may be claimed by a claimant under par.
17 (b) shall not exceed an amount equal to the first \$25,000 of salary or wages paid to
18 each of the claimant's employees, as described in par. (b), in the taxable year, not
19 including the salary or wages paid to the claimant's 2 highest paid employees, as
20 described in par. (b), in the taxable year.

21 (e) No credit may be allowed under this subsection unless the claimant files an
22 application with the department, at the time and in the manner prescribed by the
23 department, and the department approves the application.

24 (f) Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies
25 to the credit under this subsection.

1 (g) Partnerships, limited liability companies, and tax-option corporations may X
2 not claim the credit under this subsection, but the eligibility for, and the amount of,
3 the credit are based on their payment of wages and salaries. A partnership, limited X
4 liability company, or tax-option corporation shall compute the amount of credit that
5 each of its partners, members, or shareholders may claim and shall provide that X
6 information to each of them. Partners, members of limited liability companies, and X
7 shareholders of tax-option corporations may claim the credit in proportion to their
8 ownership interest.

9 SECTION 3. 71.10 (4) (gx) of the statutes is created to read:

10 71.10 (4) (gx) Film production services credit under s. 71.07 (3n).

11 SECTION 4. 71.21 (4) of the statutes is amended to read:

12 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
13 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), and (3s) and passed through to partners
14 shall be added to the partnership's income.

History: 1987 a. 312, 411; 1989 a. 31; 1993 a. 112; 1995 a. 27, 400; 1997 a. 27; 2001 a. 16.

15 SECTION 5. 71.26 (2) (a) of the statutes is amended to read:

16 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
17 the gross income as computed under the Internal Revenue Code as modified under
18 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
19 computed under s. 71.28 (1), (3), (4), and (5) plus the amount of the credit computed
20 under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), and (3g), and (3n)
21 and not passed through by a partnership, limited liability company, or tax-option
22 corporation that has added that amount to the partnership's, limited liability
23 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus
24 the amount of losses from the sale or other disposition of assets the gain from which

1 would be wholly exempt income, as defined in sub. (3) (L), if the assets were sold or
2 otherwise disposed of at a gain and minus deductions, as computed under the
3 Internal Revenue Code as modified under sub. (3), plus or minus, as appropriate, an
4 amount equal to the difference between the federal basis and Wisconsin basis of any
5 asset sold, exchanged, abandoned, or otherwise disposed of in a taxable transaction
6 during the taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

History: 1987 a. 312; 1987 a. 411 ss. 22, 124 to 129; 1989 a. 31, 336; 1991 a. 37, 39, 221, 269; 1993 a. 16, 112, 246, 263, 399, 437, 491; 1995 a. 27, 56, 351, 371, 380, 428; 1997 a. 27, 37, 184, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 106, 109; 2003 a. 33.

7 **SECTION 6. 71.28 (3n) of the statutes is created to read:**

8 **71.28 (3n) FILM PRODUCTION SERVICES CREDIT. (a) In this subsection:**

9 1. "Accredited production" means a film, video, or television production, as
10 approved by the department, for which the aggregate salary and wages included in
11 the cost of the production for the period ending 12 months after the month in which
12 the principal filming or taping of the production ~~began~~^{begins} exceeds \$100,000 for a
13 production that is 30 minutes or longer or \$50,000 for a production that is less than
14 30 minutes. "Accredited production" does not include any of the following, regardless
15 of the production costs:

16 a. News, current events, or public programming or a program that includes
17 weather or market reports.

18 b. A talk show.

19 c. A production with respect to a game, questionnaire, or contest.

20 d. A sports event or sports activity.

21 e. A gala presentation or awards show.

22 f. A finished production that solicits funds.

1 g. A production for which the production company is required under 18 U.S.C.
2 2257 to maintain records with respect to a performer portrayed in a single media or
3 multimedia program.

4 h. A production produced primarily for industrial, corporate, or institutional
5 purposes.

6 2. "Claimant" means a film production company that is operating or has
7 operated an accredited production in this state, if the company owns the copyright
8 in the accredited production or has contracted directly with the copyright owner or
9 a person acting on the owner's behalf.

10 (b) Subject to the limitations provided in this subsection, a claimant may claim
11 as a credit against the tax imposed under s. 71.23 an amount equal to 25 percent of
12 the salary or wages paid to the claimant's employees in the taxable year for services
13 rendered in this state to produce an accredited production and paid to employees who
14 were residents of this state at the time that they were paid.

15 (c) No amount of the salary or wages paid under par. (b) may be the basis for
16 a credit under this subsection unless the salary or wages are paid for services
17 rendered after December 31, 2003, and directly incurred for the production stages
18 of the accredited production, from the final script to the end of the post-production.

19 (d) The total amount of the credit that may be claimed by a claimant under par.
20 (b) shall not exceed an amount equal to the first \$25,000 of salary or wages paid to
21 each of the claimant's employees, as described in par. (b), in the taxable year, not
22 including the salary or wages paid to the claimant's 2 highest paid employees, as
23 described in par. (b), in the taxable year.

stage
reger

1 (e) No credit may be allowed under this subsection unless the claimant files an
2 application with the department, at the time and in the manner prescribed by the
3 department, and the department approves the application.

4 (f) Subsection (4) (e) to (h), as it applies to the credit under sub. (4), applies to
5 the credit under this subsection.

6 (g) Partnerships, limited liability companies, and tax-option corporations may
7 not claim the credit under this subsection, but the eligibility for, and the amount of,
8 the credit are based on their payment of wages and salaries. A partnership, limited
9 liability company, or tax-option corporation shall compute the amount of credit that
10 each of its partners, members, or shareholders may claim and shall provide that
11 information to each of them. Partners, members of limited liability companies, and
12 shareholders of tax-option corporations may claim the credit in proportion to their
13 ownership interest.

14 **SECTION 7.** 71.30 (3) (eop) of the statutes is created to read:

15 71.30 (3) (eop) Film production services credit under s. 71.28 (3n).

16 **SECTION 8.** 71.34 (1) (g) of the statutes is amended to read:

17 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
18 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), and
19 (3g), and (3n) and passed through to shareholders.

History: 1987 a. 312; 1987 a. 411 ss. 18, 23, 146; 1989 a. 31, 236; 1991 a. 39, 269; 1993 a. 16, 437; 1995 a. 27, 380, 428; 1997 a. 27, 37, 237; 1999 a. 9, 194; 2001 a. 16, 109; 2003 a. 33.

20 **SECTION 9.** 71.45 (2) (a) 10. of the statutes is amended to read:

21 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
22 computed under s. 71.47 (1dd) to (1dx) and (3n) and not passed through by a
23 partnership, limited liability company, or tax-option corporation that has added that
24 amount to the partnership's, limited liability company's or tax-option corporation's

1 income under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit computed under
2 s. 71.47 (1), (3), (4) and (5).

History: 1987 a. 312; 1989 a. 31, 336, 359; 1991 a. 37, 39, 269; 1993 a. 16, 112, 263, 437; 1995 a. 27, 56, 371, 380; 1997 a. 27, 37, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 109; 2003 a. 37.

3 **SECTION 10.** 71.47 (3n) of the statutes is created to read:

4 **71.47 (3n) FILM PRODUCTION SERVICES CREDIT.** (a) In this subsection:

5 1. "Accredited production" means a film, video, or television production, as
6 approved by the department, for which the aggregate salary and wages included in
7 the cost of the production for the period ending 12 months after the month in which
8 the principal filming or taping of the production ~~began~~^{begins} exceeds \$100,000 for a
9 production that is 30 minutes or longer or \$50,000 for a production that is less than
10 30 minutes. "Accredited production" does not include any of the following, regardless
11 of the production costs:

12 a. News, current events, or public programming or a program that includes
13 weather or market reports.

14 b. A talk show.

15 c. A production with respect to a game, questionnaire, or contest.

16 d. A sports event or sports activity.

17 e. A gala presentation or awards show.

18 f. A finished production that solicits funds.

19 g. A production for which the production company is required under 18 U.S.C.
20 2257 to maintain records with respect to a performer portrayed in a single media or
21 multimedia program.

22 h. A production produced primarily for industrial, corporate, or institutional
23 purposes.

2. "Claimant" means a film production company that is operating or has operated an accredited production in this state, if the company owns the copyright in the accredited production or has contracted directly with the copyright owner or a person acting on the owner's behalf.

(b) Subject to the limitations provided in this subsection, a claimant may claim as a credit against the tax imposed under s. 71.43 an amount equal to 25 percent of the salary or wages paid to the claimant's employees in the taxable year for services rendered in this state to produce an accredited production and paid to employees who were residents of this state at the time that they were paid.

(c) No amount of the salary or wages paid under par. (b) may be the basis for a credit under this subsection unless the salary or wages are paid for services rendered after December 31, 2003, and directly incurred for the production stages of the accredited production, from the final script to the end of the post-production stage.

(d) The total amount of the credit that may be claimed by a claimant under par. (b) shall not exceed an amount equal to the first \$25,000 of salary or wages paid to each of the claimant's employees, as described in par. (b), in the taxable year, not including the salary or wages paid to the claimant's 2 highest paid employees, as described in par. (b), in the taxable year.

(e) No credit may be allowed under this subsection unless the claimant files an application with the department, at the time and in the manner prescribed by the department, and the department approves the application.

(f) Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(g) Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of,

1 the credit are based on their payment of wages and salaries. A partnership, limited
2 liability company, or tax-option corporation shall compute the amount of credit that
3 each of its partners, members, or shareholders may claim and shall provide that
4 information to each of them. Partners, members of limited liability companies, and
5 shareholders of tax-option corporations may claim the credit in proportion to their
6 ownership interest.

7 SECTION 11. 71.49 (1) (eop) of the statutes is created to read:

8 71.49 (1) (eop) Film production services credit under s. 71.47 (3n).

9 SECTION 12. 77.92 (4) of the statutes is amended to read:

10 77.92 (4) "Net business income", with respect to a partnership, means taxable
11 income as calculated under section 703 of the Internal Revenue Code; plus the items
12 of income and gain under section 702 of the Internal Revenue Code, including taxable
13 state and municipal bond interest and excluding nontaxable interest income or
14 dividend income from federal government obligations; minus the items of loss and
15 deduction under section 702 of the Internal Revenue Code, except items that are not
16 deductible under s. 71.21; plus guaranteed payments to partners under section 707
17 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
18 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), and (3g), (3n), and (3s); and plus or minus,
19 as appropriate, transitional adjustments, depreciation differences, and basis
20 differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain,
21 loss, and deductions from farming. "Net business income", with respect to a natural
22 person, estate, or trust, means profit from a trade or business for federal income tax
23 purposes and includes net income derived as an employee as defined in section 3121
24 (d) (3) of the Internal Revenue Code.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3234/P1dm

JK:K...


Date

Representative Wieckert:

Please review this draft carefully to ensure that it is consistent with your intent. This bill is modelled on the Illinois film production services tax credit act and, like the Illinois law, first applies to taxable years beginning on January 1, 2004. Please contact me if you wish to delay the bill's effective date or if you have any questions.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3234/P1dn
JK:kjfrs

October 23, 2003

Representative Wieckert:

Please review this draft carefully to ensure that it is consistent with your intent. This bill is modelled on the Illinois film production services tax credit act and, like the Illinois law, first applies to taxable years beginning on January 1, 2004. Please contact me if you wish to delay the bill's effective date or if you have any questions.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3234/P1

JK:kjfa

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~~PRELIMINARY DRAFT NOT READY FOR INTRODUCTION~~

in 10-23-03

due filed 10-29-03

Regen

- 1 AN ACT *to amend* 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)
2 (a) 10. and 77.92 (4); and *to create* 71.07 (3n), 71.10 (4) (gx), 71.28 (3n), 71.30
3 (3) (eop), 71.47 (3n) and 71.49 (1) (eop) of the statutes; **relating to:** creating an
4 income and franchise tax credit for expenses related to film production services.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit ~~for salary and wages paid in this state for film production services~~. The amount of the tax credit is equal to 25 percent of the salary or wages paid to the taxpayer's employees in the taxable year for services rendered in this state to produce a film, video, or television production, as approved by the Department of Revenue, and paid to employees who were residents of this state at the time that they were paid. The total amount of the credit that may be claimed by a taxpayer may not exceed an amount equal to the first \$25,000 of salary or wages paid to each of the taxpayer's employees in the taxable year, not including the salary or wages paid to the taxpayer's two highest paid employees in the taxable year. If the total amount of the credit claimed by a taxpayer exceeds the taxpayer's tax liability, the state will not issue a refund, but the taxpayer may carry forward any remaining credit to subsequent taxable years.

entitled the entertainment, broadcasting, and film economic
rebate tax credit (EBERT)

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 71.05 (6) (a) 15. of the statutes is amended to read:

71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), and (3s) and not passed through by a partnership, limited liability company, or tax-option corporation that has added that amount to the partnership's, company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

SECTION 2. 71.07 (3n) of the statutes is created to read:

71.07 (3n) ~~FILM PRODUCTION SERVICES~~ CREDIT. (a) In this subsection:

1. "Accredited production" means a film, video, or television production, as approved by the department, for which the aggregate salary and wages included in the cost of the production for the period ending 12 months after the month in which the principal filming or taping of the production begins exceeds \$100,000 for a production that is 30 minutes or longer or \$50,000 for a production that is less than 30 minutes. "Accredited production" does not include any of the following, regardless of the production costs:

a. News, current events, or public programming or a program that includes weather or market reports.

b. A talk show.

c. A production with respect to a game, questionnaire, or contest.

d. A sports event or sports activity.

e. A gala presentation or awards show.

Entertainment, broadcasting, and film economic rebate tax (5)

1 f. A finished production that solicits funds.

2 g. A production for which the production company is required under 18 U.S.C.
3 2257 to maintain records with respect to a performer portrayed in a single media or
4 multimedia program.

5 h. A production produced primarily for industrial, corporate, or institutional
6 purposes.

7 2. “Claimant” means a film production company that is operating or has
8 operated an accredited production in this state, if the company owns the copyright
9 in the accredited production or has contracted directly with the copyright owner or
10 a person acting on the owner’s behalf.

11 (b) Subject to the limitations provided in this subsection, a claimant may claim
12 as a credit against the tax imposed under s. 71.02 an amount equal to 25 percent of
13 the salary or wages paid to the claimant’s employees in the taxable year for services
14 rendered in this state to produce an accredited production and paid to employees who
15 were residents of this state at the time that they were paid.

16 (c) No amount of the salary or wages paid under par. (b) may be the basis for
17 a credit under this subsection unless the salary or wages are paid for services
18 rendered after December 31, 2003, and directly incurred for the production stages
19 of the accredited production, from the final script stage to the end of the
20 post-production stage.

21 (d) The total amount of the credit that may be claimed by a claimant under par.
22 (b) shall not exceed an amount equal to the first \$25,000 of salary or wages paid to
23 each of the claimant’s employees, as described in par. (b), in the taxable year, not
24 including the salary or wages paid to the claimant’s 2 highest paid employees, as
25 described in par. (b), in the taxable year.

(e) No credit may be allowed under this subsection unless the claimant files an application with the department, at the time and in the manner prescribed by the department, and the department approves the application.

(f) Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(g) Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of wages and salaries. A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interest. *Entertainment, broadcasting, and film economic rebate tax*

SECTION 3. 71.10 (4) (gx) of the statutes is created to read:

71.10 (4) (gx) ~~Film production services~~ credit under s. 71.07 (3n).

SECTION 4. 71.21 (4) of the statutes is amended to read:

71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), and (3s) and passed through to partners shall be added to the partnership's income.

SECTION 5. 71.26 (2) (a) of the statutes is amended to read:

71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means the gross income as computed under the Internal Revenue Code as modified under sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit computed under s. 71.28 (1), (3), (4), and (5) plus the amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), ~~and~~ (3g), and (3n)

and not passed through by a partnership, limited liability company, or tax-option corporation that has added that amount to the partnership's, limited liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or other disposition of assets the gain from which would be wholly exempt income, as defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and minus deductions, as computed under the Internal Revenue Code as modified under sub. (3), plus or minus, as appropriate, an amount equal to the difference between the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or otherwise disposed of in a taxable transaction during the taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

SECTION 6. 71.28 (3n) of the statutes is created to read:

71.28 (3n) ~~FILM PRODUCTION SERVICES~~ CREDIT. (a) In this subsection:

1. "Accredited production" means a film, video, or television production, as approved by the department, for which the aggregate salary and wages included in the cost of the production for the period ending 12 months after the month in which the principal filming or taping of the production begins exceeds \$100,000 for a production that is 30 minutes or longer or \$50,000 for a production that is less than 30 minutes. "Accredited production" does not include any of the following, regardless of the production costs:

a. News, current events, or public programming or a program that includes weather or market reports.

b. A talk show.

c. A production with respect to a game, questionnaire, or contest.

d. A sports event or sports activity.

e. A gala presentation or awards show.

Entertainment, broadcasting, and film economic rebate tax (CS)

1 f. A finished production that solicits funds.

2 g. A production for which the production company is required under 18 U.S.C.
3 2257 to maintain records with respect to a performer portrayed in a single media or
4 multimedia program.

5 h. A production produced primarily for industrial, corporate, or institutional
6 purposes.

7 2. "Claimant" means a film production company that is operating or has
8 operated an accredited production in this state, if the company owns the copyright
9 in the accredited production or has contracted directly with the copyright owner or
10 a person acting on the owner's behalf.

11 (b) Subject to the limitations provided in this subsection, a claimant may claim
12 as a credit against the tax imposed under s. 71.23 an amount equal to 25 percent of
13 the salary or wages paid to the claimant's employees in the taxable year for services
14 rendered in this state to produce an accredited production and paid to employees who
15 were residents of this state at the time that they were paid.

16 (c) No amount of the salary or wages paid under par. (b) may be the basis for
17 a credit under this subsection unless the salary or wages are paid for services
18 rendered after December 31, 2003, and directly incurred for the production stages
19 of the accredited production, from the final script stage to the end of the
20 post-production stage.

21 (d) The total amount of the credit that may be claimed by a claimant under par.
22 (b) shall not exceed an amount equal to the first \$25,000 of salary or wages paid to
23 each of the claimant's employees, as described in par. (b), in the taxable year, not
24 including the salary or wages paid to the claimant's 2 highest paid employees, as
25 described in par. (b), in the taxable year.

(e) No credit may be allowed under this subsection unless the claimant files an application with the department, at the time and in the manner prescribed by the department, and the department approves the application.

(f) Subsection (4) (e) to (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

(g) Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of wages and salaries. A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interest. *Entertainment, broadcasting, and film economic rebate tax*

SECTION 7. 71.30 (3) (eop) of the statutes is created to read:

71.30 (3) (eop) ~~Film production services~~ credit under s. 71.28 (3n).

SECTION 8. 71.34 (1) (g) of the statutes is amended to read:

71.34 (1) (g) An addition shall be made for credits computed by a tax-option corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), and (3g), and (3n) and passed through to shareholders.

SECTION 9. 71.45 (2) (a) 10. of the statutes is amended to read:

71.45 (2) (a) 10. By adding to federal taxable income the amount of credit computed under s. 71.47 (1dd) to (1dx) and (3n) and not passed through by a partnership, limited liability company or tax-option corporation that has added that amount to the partnership's, limited liability company's or tax-option corporation's

*Entertainment, broadcasting, and film economic
rebate tax*

1 income under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit computed under
2 s. 71.47 (1), (3), (4) and (5).

3 **SECTION 10.** 71.47 (3n) of the statutes is created to read:

4 **71.47 (3n) ~~FILM PRODUCTION SERVICES~~ CREDIT.** (a) In this subsection:

5 1. "Accredited production" means a film, video, or television production, as
6 approved by the department, for which the aggregate salary and wages included in
7 the cost of the production for the period ending 12 months after the month in which
8 the principal filming or taping of the production begins exceeds \$100,000 for a
9 production that is 30 minutes or longer or \$50,000 for a production that is less than
10 30 minutes. "Accredited production" does not include any of the following, regardless
11 of the production costs:

12 a. News, current events, or public programming or a program that includes
13 weather or market reports.

14 b. A talk show.

15 c. A production with respect to a game, questionnaire, or contest.

16 d. A sports event or sports activity.

17 e. A gala presentation or awards show.

18 f. A finished production that solicits funds.

19 g. A production for which the production company is required under 18 U.S.C.
20 2257 to maintain records with respect to a performer portrayed in a single media or
21 multimedia program.

22 h. A production produced primarily for industrial, corporate, or institutional
23 purposes.

24 2. "Claimant" means a film production company that is operating or has
25 operated an accredited production in this state, if the company owns the copyright

1 in the accredited production or has contracted directly with the copyright owner or
2 a person acting on the owner's behalf.

3 (b) Subject to the limitations provided in this subsection, a claimant may claim
4 as a credit against the tax imposed under s. 71.43 an amount equal to 25 percent of
5 the salary or wages paid to the claimant's employees in the taxable year for services
6 rendered in this state to produce an accredited production and paid to employees who
7 were residents of this state at the time that they were paid.

8 (c) No amount of the salary or wages paid under par. (b) may be the basis for
9 a credit under this subsection unless the salary or wages are paid for services
10 rendered after December 31, 2003, and directly incurred for the production stages
11 of the accredited production, from the final script stage to the end of the
12 post-production stage.

13 (d) The total amount of the credit that may be claimed by a claimant under par.
14 (b) shall not exceed an amount equal to the first \$25,000 of salary or wages paid to
15 each of the claimant's employees, as described in par. (b), in the taxable year, not
16 including the salary or wages paid to the claimant's 2 highest paid employees, as
17 described in par. (b), in the taxable year.

18 (e) No credit may be allowed under this subsection unless the claimant files an
19 application with the department, at the time and in the manner prescribed by the
20 department, and the department approves the application.

21 (f) Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies
22 to the credit under this subsection.

23 (g) Partnerships, limited liability companies, and tax-option corporations may
24 not claim the credit under this subsection, but the eligibility for, and the amount of,
25 the credit are based on their payment of wages and salaries. A partnership, limited

Entertainment, broadcasting, and film economic relate tax

liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interest.

SECTION 11. 71.49 (1) (eop) of the statutes is created to read:

71.49 (1) (eop) ~~Film production services~~ credit under s. 71.47 (3n).

SECTION 12. 77.92 (4) of the statutes is amended to read:

77.92 (4) "Net business income", with respect to a partnership, means taxable income as calculated under section 703 of the Internal Revenue Code; plus the items of income and gain under section 702 of the Internal Revenue Code, including taxable state and municipal bond interest and excluding nontaxable interest income or dividend income from federal government obligations; minus the items of loss and deduction under section 702 of the Internal Revenue Code, except items that are not deductible under s. 71.21; plus guaranteed payments to partners under section 707 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), and (3g), (3n), and (3s); and plus or minus, as appropriate, transitional adjustments, depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain, loss, and deductions from farming. "Net business income", with respect to a natural person, estate, or trust, means profit from a trade or business for federal income tax purposes and includes net income derived as an employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

SECTION 13. Initial applicability.

1 (1) This act first applies to taxable years beginning on January 1, 2004.

2 (END)



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

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MADISON, WI 53701-2037

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REFERENCE SECTION: (608) 266-0341
FAX: (608) 264-6948

STEPHEN R. MILLER
CHIEF

November 17, 2003

MEMORANDUM

To: Representative Wieckert

From: Joseph T. Kreye, Legislative Attorney, (608) 266-2263

Subject: Technical Memorandum to **(un-introduced)** (LRB 03-3234/1)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

November 10, 2003

TO: Joseph Kreye
Legislative Reference Bureau

FROM: Dennis Collier
Department of Revenue

SUBJECT: Technical Memorandum on LRB 3234/1 Film Production Services Tax Credit

The Department has the following comments regarding the draft:

- The order of computation in sec. 71.10(4)(gx) places the credit after the alternative minimum tax, which allows the credit to offset minimum tax. However, sec. 71.07(3n)(b) provides that the credit may be applied only against the tax imposed under sec. 71.02. If the credit is intended to offset the alternative minimum tax, then sec. 71.07(3n)(b) should provide that a claimant may claim the credit against the tax imposed under both secs. 71.02 and 71.08. If it is not meant to offset the alternative minimum tax, then the order of computation should be placed somewhere between sec. 71.10(4)(b) and (f) and sec. 71.08(1)(intro.) should not be amended to include sec. 71.07(3n).
- Sections 71.07(3n)(b), 71.28(3n)(b), and 71.47(3n)(b) allow a credit for wages paid to the claimant's employees for services rendered in this state to produce an accredited production and paid to employees who were residents of this state at the time they were paid. This provision can be read to mean that wages qualify if paid to a nonresident who is performing services in the state to produce an accredited production or wages paid to a Wisconsin resident whether or not the services relate to producing an accredited production in the state. This paragraph should be revised to clarify the author's intent.

Sections 71.07(3n)(c), 71.28(3n)(c), and 71.47(3n)(c) provide that the wages subject to credit must be paid for services directly incurred for the production stages of the film, from the final script stage to the end of the post-production stage. Some filmmakers begin filming without having a final script. The script is written as sections of the movie are filmed. The sponsor may wish to substitute "from the start of filming" for "final script stage."

Sections 71.07(3n)(d), 71.28(3n)(d), and 71.47(3n)(d) state that the credit shall not exceed an amount "equal to the first \$25,000 of salary or wages paid to each of the claimant's employees ... not including the salary or wages paid to the claimant's 2 highest paid employees ..." The credit is 25% of wages paid to employees who are Wisconsin residents. It is unclear if the credit is intended to be limited to \$25,000 per employee or to 25% of the \$25,000 of each employee's wages. Also, it is unclear how the limitation affects the two highest paid employees and if any credit is available if there are only two employees.

- This proposal first applies to taxable years beginning on January 1, 2004. This effective date could be a problem if the bill were to be enacted late in 2004 after forms are sent to the printer. The Department recommends that if the bill were enacted after July 31, it would first apply to taxable years beginning on January 1 after the date of enactment.

The proposed legislation makes no provision for the funding of the costs involved in administering the activities required. The Department anticipates one-time costs for programming, development and start-up of the credit. If the author wishes to provide funding, appropriation language could be developed and costs allocated in the following manner:

	<u>Chapter 20</u>	<u>Amount</u>
one-time	s. 20.566 (1) (a)	\$20,600

If you have questions regarding this technical memorandum, please contact Pam Walgren at 266-7817.

Memo

To: Senator ☐

Representative ☒

Wieckert

(The Draft's Requester)

Per your request: ... the attached fiscal estimate was prepared for your unIntroduced 2003 draft.

LRB Number: LRB

- 3234

Version: " / **1** "

Fiscal Estimate Prepared By: (agency abbr.)

DOR

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

Entered In Computer And Copy Sent To Requester Via E-Mail: **11 / 17** / 2003

* * * * *

To: LRB – Legal Section PA's

Subject: *Fiscal Estimate Received For An Unintroduced Draft*

> **If redrafted** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version.

> **If introduced** ... and the version of the attached fiscal estimate is for a **previous version** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version. Have Mike (or Lynn) get the ball rolling on getting a fiscal estimate prepared for the introduced version.

> **If introduced** ... and the version of the attached fiscal estimate is for the **current version** ... please write the draft's introduction number below and give to Mike (or Lynn) to process.

THIS DRAFT WAS INTRODUCED AS: 2003

AB 976

Barman, Mike

From: Barman, Mike
Sent: Monday, November 17, 2003 2:17 PM
To: Rep.Wieckert
Cc: Becher, Scott
Subject: LRB 03-3234/1 (FE by DOR - attached - for your review)



FE_Wieckert.pdf